



# Prosecuting Attorney Presentation

Presented by:

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AZ Compact Commissioner

[Revision 9/19/2013]

# Presentation Objectives

- Interstate Compacts
  - Elements, uses and authority
- Overview of Interstate Compact for Adult Offender Supervision
- Judicial Considerations of the ICAOS

# Authority of the Interstate Compact

- Article I, Section 10, Clause 3 of the U.S. Constitution – the “Compact Clause”
- The Crime Control Act of 1934
  - Cuyler vs. Adams, 449 U.S. 433 (1981).  
**Compact rules supersede any state laws in conflict with them.**



# Authority to Regulate

- There is no “right” of convicted persons to travel across state lines. See, Bagley v. Harvey, 718 F.2d 921 (9<sup>th</sup> Cir. 1988).
- Convicted person has no right to control where they live; the right is extinguished for the balance of their sentence. Williams v. Wisconsin, 336 F.3d 576 (7<sup>th</sup> Cir. 2003),

# Interstate Compact Legislation

- Courts, Parole Boards, Community Corrections & other Executive Agencies
  - subject to ICAOS rules
  - MUST enforce & effectuate the Compact

***A.R.S. § 31-467***



# National Governing Body

- All 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are members of the Interstate Compact
  - Rule Making Authority
  - Compliance Enforcement
    - *Audits*
    - *Sanctions for non-compliance*



# Purpose of ICAOS

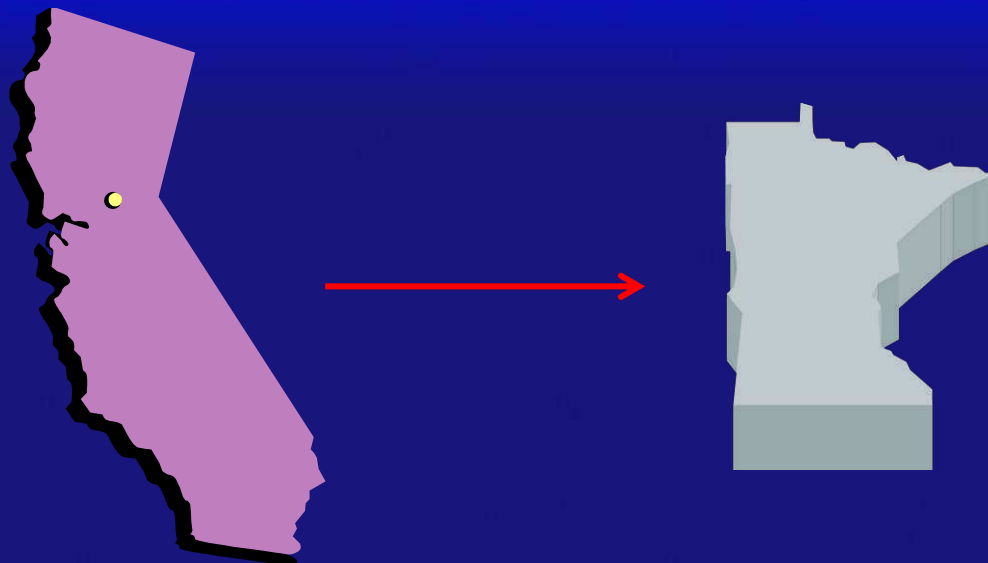
- Promote Public Safety
- Protect the Rights of Victims
- Effective Supervision/Rehabilitation
- Control Movement of Offenders
- Provide for Effective Tracking





# Considerations for Courts Post-Sentencing

- ICAOS impacts how offenders are:
  - Transferred to another state
  - Supervised over state lines
  - Returned to a sending state when in violation.





# What Triggers the Compact?

An *eligible offender* subject to supervision requests to relocate to another state.

**“Relocate”** means to remain in another state for **more than 45 consecutive days** in any 12 month period.



Rule 2.110

# Eligible Offenders Must Transfer via the Compact

- **Eligible Offenders:**

- ALL Felons
- Certain Misdemeanants (*Rule 2.105*)
- Deferred sentences (*Rule 2.106*)
  - *Is there a finding of guilt?*
  - *Has a plea been entered?*
  - *Given up the right to trial?*
- “Unsupervised” Offenders that require monitoring of non-monetary conditions
  - Unsupervised Probation
  - Compliance Monitoring

- **Non-eligible Offenders:**

- Certain Misdemeanants (*Rule 2.105*)
- Those on work-release (*Rule 2.107*)
- or released under furlough (*Rule 2.107*)
- or on a pre-parole program (*Rule 2.107*)
- Those on a Pre-Trial Release Program
- or offenders released on bail

# “Supervision”

- Supervision has two distinct criteria:
  1. Oversight exercised by an authority which includes courts
  2. Regulations and conditions, **other than monetary conditions**, imposed on the offender at the time of release to the community
- \* Receiving States often request early termination for our outgoing offenders who have completed all conditions. However, most of these requests result in a modification to Unsupervised Probation which still requires supervision in the Receiving State

# Transfer of Offenders

- Sole discretion of Sending State
- No right to relocate
- Receiving state has up to 45 days to investigate plan of supervision
  - Acceptance (valid for 120 days)
  - Denial

Rules 3.101, 3.104, 3.104-1

# No Travel Prior to Transfer Reply

- The offender SHALL NOT proceed to the receiving state.
  - Advisory Opinion 9-2006 & 3-2004: If an offender is in a receiving state prior to acceptance, the Receiving State can properly reject the request for transfer.

Rule 3.102

	Interstate Commission for Adult Offender Supervision	
	Opinion Number 9-2006	Page Number: 1
ICAOS Advisory Opinion Issued by:		

# Supervision of Accepted Cases

- Receiving state determines degree of supervision
  - MUST be consistent with the supervision of other similar offenders sentenced in the receiving state
    - Special Conditions
    - Violations
- Sending State determines length of supervision.

Rule 4.101 & 4.102



# Special Interest

- Movement of Sex Offenders
  - No travel w/o approved reporting instructions
- Out of State for Work or Treatment
  - If for more than 45 days & compact eligible offender, prohibited unless transfer via the Compact



# Victims

- Victim Notification and Right to be Heard
  - Change in Offender Status
  - Right to Comment



# Special Interest for Judicial Authorities

- Imposing Special Conditions

***Sending State required to give same effect to a violation of a special condition imposed by the receiving state***

# Retaking & Violations

- Retaking Interstate Compact Offenders
  - Waiving Extradition Rights

Interstate Commission for Adult Offender Supervision

OFFENDER'S APPLICATION FOR INTERSTATE COMPACT TRANSFER

I hereby agree that if I am ever arrested or taken into custody by any law enforcement officer in any state, I will immediately return to the state where I may be found. This is commonly called the right of extradition. I understand that I have agreed to return to the sending state when ordered to do so either by the sending state or by the receiving state. Therefore, I agree that I will not resist or fight any effort by any state to return me to the sending state.

TO WAIVE ANY RIGHT I MAY HAVE TO EXTRADITION, I WAIVE THIS RIGHT FREE AND INTELLIGENTLY.

Offender's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

## – Violations

- Sending State must respond within 10 business days
  - *If offender absconds, warrant must be issued upon receipt.*
- Probable Cause Requirements

# “Warrant”

- Issued by either the sending or receiving state
- SHALL be entered in the NCIC Wanted Person File with a national pick-up radius



*No Bail or Other Release Conditions*

# www.interstatecompact.org



## Interstate Commission for Adult Offender Supervision

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# AZ and ICAOS Key Personnel

- AZ Compact Commissioner
  - Dori Ege (602) 452-3324
- ICAOS Commission Chair
  - Mr. Milton Gilliam, Oklahoma
- ICAOS Executive Director
  - Harry Hageman
- ICAOS General Counsel
  - Mr. Richard L. Masters, Esq.